IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 23531 of 2004

Between:

1 Sri. Y. Kannam Naidu, S/o. Late Narsimha Murthy, Hindu, Male,
R/o. Door No. 44-5-79, Thatichetlapalem, Visakhapatnam - 16.
2 Ch. Kumar, S/o. Late Laxmi Narsimham, Hindu, Male,
R/o. Door No. 44-4-1, Thatichetlapalem, Visakhapatnam - 16.

..... PETITIONERS

AND

The Municipal Corporation, Visakhapatnam rep. by
the Municipal Commissioner, Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in putting markings for demolition of our houses bearing No. 44-5-79 & 44-4-1 in an extent of 299 sq. yards and 408 sq. yards at Thattichetlapalem, Visakhapatnam - 16 respectively by diverting the road in front of our houses leaving the own site of the Municipal Corporation, Visakhapatnam available for road widening from 50 feet road to 80 feet road leading from Akkayyapalem to Thattichetlapalem and putting markings on 06-12-2004 and attempting to demolish on 15-12-2004 without considering the written representation dated 07-12-2004 and without acquiring and paying compensation to our properties under the Land Acquisition Act and without following due process of law and threatening to demolish our houses at any moment for road widening as illegal, arbitrary, capricious unjust violative of principles of natural justice and Article 300 A of Constitution of India and consequently to direct the respondent not to demolish our houses and not to divert the road widening in front of the houses of the petitioners to a length of about 250 feet.

For the Petitioners: SMT.N.(P).ANJANA DEVI, Advocate

For the Respondent: MR.T.S.VENKATARAMANA, Standing Counsel

for Municipal Corporation of Visakhapatnam.

The Court at the stage of admission made the following :

ORDER:

Heard the learned counsel for the petitioners and the learned Standing counsel for the respondent-Municipal Corporation and with their consent the writ petition itself is disposed of at the stage of admission.

The grievance of the petitioners is that without acquiring their land under the provisions of the Land Acquisition Act and without paying any compensation, the respondent is proposing to widen the road leading from Akkayyapalem to Thattichetlapalem by demolishing their houses bearing door Nos.44-5-79 and 44-4-1 in an extent of 299 square yards and 408 square yards respectively situated at Thattichetlapalem, Visakhapatnam, even though alternative land of the Corporation is available and, therefore, they pray for appropriate direction.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition in the following terms:

The respondent, before proposing to widen the road by demolishing the houses of the petitioners, shall acquire their property under the provisions of Land Acquisition Act or by way of negotiations. Till such time, the respondent shall not demolish the structures of the petitioners.

The writ petition is disposed of accordingly at the stage of admission. No costs.

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N.V. RAMANA, J

Date: 15-12-2004

Svv

To

1. The Commissioner, Municipal Corporation, Visakhapatnam

2. Two CD copies.